

REMARKS

Applicants have amended claim 12 to clarify that the diaphragm layer is formed over the conductive layers.

Claims 1, 3-5, and 12-13 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Muller et al. (US 4,783,821) in view of Jerman (US 5,209,118), Ladabaum et al. (US 5,870,351) and Loeppert (US 5,490,220).

Regarding claims 12 and 13, as amended, applicants assert that the references do not disclose a transducer having a diaphragm formed over the conductive layers, and, therefore, a proper obviousness type rejection is no longer applicable. As described in the method of fabricating the present invention on page five of the specification, the conductive layers, having the insulating layer between, are formed over the silicon nitride layer and, then, the diaphragm layer is formed over the conductive layers.


As can be clearly discerned by Fig. 2 of the Muller et al. disclosure, the diaphragm layer (silicon nitride) is clearly formed beneath the conductive layers (or contacts). The configuration disclosed in Muller et al. is the standard method of forming a diaphragm-type transducer. However, depending upon the use and type of electrical contact desired for the transducer, there are certain advantages to the configuration set forth in the present application. Therefore, because Muller et al. does not disclose the elements of the present invention, as set forth in amended claim 12, in the configuration found in the present invention, applicants assert that the obviousness rejection no longer applies.

Regarding claims 1 and 3-5, while the elements of the present method, as set forth in claims 1 and 3-5, may be disclosed in the references as the examiner suggests, applicants assert that the references do not disclose a method that uses the steps in the

order set forth in said claims, thereby, producing a unique device. As discussed above, the formation of the layers of the present invention, as described in method claims 1 and 3, is in a different order than the formation of layers disclosed in the Muller et al. reference. Therefore, it is inherently impossible to practice the present invention using the method disclosed in Muller et al., regardless of whether it would be obvious to substitute particular constituents from other references as the examiner suggests. One could never obtain the present invention using the method set forth in Muller et al. Thus, applicants assert that no reference in combination with Muller et al. will result in the present invention, and, therefore, the current obviousness rejections are in error.

Accordingly, applicants believes that claims 1-21 are in condition for allowance and respectfully requests the examiner to withdraw all objections and rejections and allow said claims. Should the examiner need more information regarding this matter or have further suggestions regarding this application, feel free to call the undersigned at 301-744-5603.

Respectfully submitted,


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